

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re: William Newberry) Case Number: 11-14136
 Laura Newberry) Chapter 13 Proceedings
 Debtors) Judge Jessica E. Price Smith

TRUSTEE'S MOTION TO MODIFY DEBTORS' CONFIRMED PLAN

Now comes **CRAIG SHOPNECK**, the duly appointed, qualified, and standing Trustee herein, and hereby moves this Honorable Court to modify the debtors' confirmed Chapter 13 plan. In support of this motion the Trustee makes the following representations to the Court:

1. The Debtors filed a petition under Chapter 13 of Title 11, U.S.C. on **May 13, 2011**. The Debtors' plan was confirmed on **October 31, 2011**. The plan calls for a payment to the Trustee of **\$535.00** per month.
2. The Debtors' confirmed plan calls for a dividend of **7%** to be paid to unsecured creditors.
3. The Debtors are "above-median income" and the applicable commitment period for the plan is 60 months. The plan is currently running **43** months according to the Trustee's calculations. Pursuant to the Sixth Circuit *Baud* decision, an "above-median income" debtor must remain in the plan for a period of 60 months so as to maximize the return to unsecured creditors.
4. Section 1329(a)(1) of the Bankruptcy Code provides that the plan may be modified at any time after confirmation (but before the completion of payments under the plan) in order to increase the amount to be paid to unsecured creditors. Section 1325(a) of the code requires that such a modification be offered in "good faith." Based on the information provided, it would be appropriate to modify the Debtors' plan to increase the payout to unsecured creditors to **\$11,660.00** or **30%**, whichever is greater.

WHEREFORE your Trustee, being a proper party in interest, hereby moves this Honorable Court to modify the Debtors' plan in accordance with the recommendations listed in this motion and for the reasons cited.

/S/ Craig Shopneck
CRAIG SHOPNECK (#0009552)
Chapter 13 Trustee
200 Public Square, BP Tower Suite 3860
Cleveland OH 44114-2321
Phone (216) 621-4268 Fax (216) 621-4806
Ch13shopneck@ch13cleve.com

CERTIFICATE OF SERVICE

I certify that on July 9, 2013 a true and correct copy of this Motion to Modify Plan was served:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

Robert J Berk, on behalf of Laura & William Newberry, Debtors, at Bobberklex@Aol.Com

And by regular U.S. mail, postage prepaid, on:

Laura & William Newberry, Debtors, at 62 Southwick Drive, Bedford, OH 44146

Attorney General, Us Dept Of Justice, 950 Pennsylvania Ave Nw, Washington DC 205300001

Attorney General State Of Ohio, Collection Enforcement/Attn R Daum, 150 E Gay St 21st Fl, Columbus OH
43215

Bank Of America, P.O. Box 15019, Wilmington DE 198505019

Candica Llc, % Weinstein & Riley Ps, 2001 Western Ave Ste 400, Seattle WA 98121

Charter One, 480 Jefferson Blvd. Rje135, Warwick RI 02886

Chase Bank Usa Na, P.O. Box 15145, Wilmington DE 198505145

Citimortgage Inc, P.O. Box 140609, Irving TX 750140609

C.S.E.A., 1640 Superior Ave E, P.O. Box 93318, Cleveland OH 44101

Department Of The Treasury - Irs, Internal Revenue Service, P.O. Box 7346, Philadelphia PA 191017346

Fia Card Services Na, P.O. Box 15102, Wilmington DE 198865102

Ford Motor Credit Co Llc, P.O. Box 6275, Dearborn MI 48121

Kay Kindice, 8356 Summit Dr, Chagrin Falls OH 44023

Keith D Weiner, Keith D Weiner & Assoc Co Lpa, 75 Public Square 4th Fl, Cleveland OH 44113

Mazda American Credit, P.O. Box 6275, Dearborn MI 48121

Office Of The Us Attorney, Us Courthouse/ Carl B Stokes, 801 W Superior Avenue, Suite 400, Cleveland OH
44113

Pra Receivables Management Llc, % Portfolio Recovery Assocs, P.O. Box 41067, Norfolk VA 23541

Vanda Llc, % Weinstein & Riley Ps, 2001 Western Avenue, Suite 400, Seattle WA 98121

/S/ Craig Shopneck

CRAIG SHOPNECK (#0009552)

Chapter 13 Trustee

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